R. Dis File No. 267

1939.

Collection No.

Shyama Residency Bangalore.

Pros. Serial Nos. 1 – 24

Subject.

Investments of Reserve Funds to be maintained by Banks under Section 277-K(3) of the Indian Companies Act – 1913.

Previous References.

Later References.

A

16/11/46

S. 97.—(Green).

MFP—1663 S&P—(M-2971)—24-6-38—100,000.

S.N.I

No.F.393-A/38.

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE 4/1/39
Recd. No. 21
File No.

From

The Secretary to His Excellency
the Crown Representative,

To

The Hon'ble the Resident at Hyderabad.
" " in Mysore.
" " for Rajputana.

Dated New Delhi, the 31st December 1938.

Investments of Reserve Funds to be maintained by Banks under Section 277-K(3) of the Indian Companies Act, 1913.

Sir,

I am directed to forward for information and necessary action, with reference to the concluding portion of the Finance Department letter of the 15th November 1938, a copy of the papers noted in the margin, in respect of any Banks that may be situated in Administered Areas.

(1) Letter from the Kumbakonam Bank Limited dated the 25th August 1938.
(2) Government of India, Finance Department letter to the Kumbakonam Bank Limited No.D.7014-F dated the 15th November 1938.

I have the honour to be,
Sir,
Your most obedient servant,

for Secretary to His Excellency
the Crown Representative.

Copy of letter dated the 25th August 1938, from the Managing Director, the Kumbakonam Bank, Limited, Kumbakonam, to the Secretary to the Government of India, Finance Department, New Delhi.

Ref:-

Subject:- Section 277 K(3) of the Indian Companies Act- Investment of Reserve Fund -

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1. Our Bank, (i.e.) the Kumbakonam Bank Ltd., is a Company registered in 1904, under the Indian Companies Act, and doing banking business. It has got a general Reserve Fund as on 30th June, 1938, of Rs.1,46,093-4-0.

2. Section 277 K (3) of the Indian Companies Act VII of 1913, amended by Act XXII of 1936, requires that a Banking Company shall invest the amount standing to the credit of its reserve fund in Government Securities or keep it deposited in a special account in a scheduled Bank.

3. On 30th June, 1938, our Bank held Government Securities of the description mentioned in Section 20 of the Indian Trusts Act 1882, bearing face value of Rs.2,63,200/- and book value of Rs.2,58,146-1-6, as shown in the copy of our last Balance Sheet as at 30th June, 1938, enclosed herewith.

4. I beg to be informed whether it is enough that the total of the Government Securities held by us is not less than the amount of the Reserve Fund, or whether it is necessary that an amount exactly equal to the Reserve Fund at credit should be separated by the Bank and invested in Government Securities of appropriate value, for the purpose of satisfying the requirements of section 277 K(3).

5. Moreover, till now, the whole of the Government Securities held by us were treated as available for the

purpose .....

purpose of pledging and borrowing on the security thereof for the purpose of augmenting our cash resources from time to time as required by the exigencies of the Bank

6. I beg to be informed whether hereafter also the same practice may be continued and the whole of the Government Securities including those held as investment of the reserve fund may be treated as available for the purpose of pledging and borrowing by way of loan or overdraft, whenever occasions arise for meeting the requirements of the Bank as exigencies may arise from time to time.

Copy of letter No.D/7014-F., dated New Delhi, the 15th November 1938, from the Under Secretary to the Government of India in the Finance Department, to the Managing Director, the Kumbakonam Bank, Limited, Kumbakonam.

Section 277 K(3) of the Indian Companies Act- Investment of Reserve Fund -

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With reference to your letter dated the 25th August 1938 on the above subject, I am directed to state that the Statutory Reserve Fund required to be maintained under Section 277 (K)(3) of the Indian Companies Act should be invested separately in prescribed securities kept apart from the Bank's other investments and that the Balance Sheets of banking companies should always show unencumbered Government Securities (or special deposits in other banks) at least equal to the Reserve Fund.

As regards the question whether investments of the Reserve Fund would be available for pledging with other banks as security for loans, though the Act does not lay down the manner in which the Reserve Fund should be used, the purpose for which a Reserve Fund is to be maintained would be defeated if it is used to meet day to day requirements for loans and overdraft facilities. In the case of the scheduled banks, the Reserve Banks have considered that an amount of Securities at least equivalent to the Reserve Fund should be left unencumbered except for the purpose of borrowing from the Reserve Bank in times of emergencies. It is desirable that the non-scheduled banks should also use these Reserve Funds only in grave emergencies. As there may be practical difficulty in defining an emergency it will be best to take the permission of the Registrar of Joint Stock Companies before the Securities forming part of the Reserve Fund are pledged.

S. N. —

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Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21/1/ *1939.*

D. No. F. 77-39 Cu I
R. O. II

A copy of the undermentioned paper(s) is forwarded to the Registrar of Joint Stock Companies, C & M Station, Bangalore, for information and ~~favour of~~ necessary action.

~~for information,~~ ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with his~~

~~Memorandum~~ / ~~letter~~ / ~~endorsement~~ ~~from~~

~~No.~~ ~~dated the~~

By order,

12/1

~~XXXXXXX~~ / *Asst. Secy.* *to the Resident.*

LIST OF PAPERS.

S. N. 1
P. U. C

Letter from the Secretary to H.E. the Crown Representative, New Delhi, No. F. 393-A/38, dated the 31st December 1938, with enclosures.

9/1/39

11.1.39

1621—2-4-1935—2,000—RPB.

16

S. N. 3

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
7 AUG. 1939
Diary No. 8153
File No. P.S.36.7.39

No.F.121-A/39.

A copy of the undermentioned papers is forwarded to the (i) Hon'ble the Resident at Hyderabad,
(ii) Hon'ble the Resident in Mysore,
and (iii) Hon'ble the Resident for Rajputana,

for information, incontinuation of letter from the Political Department No.F.393-A/38, dated the 31st December 1938.

* S.N. 1

By order, etc.,

for Secretary to His Excellency the Crown Representative.

Political Department:

Simla.

The 3rd August 1939.

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1. Letter from the Government of the North-West Frontier Province, Legislative Department, No.346/XX.C.29 L.D., dated the 20th February 1939 and enclosure.

2. Letter from the Government of India, Finance Department, to the Government of the North-West Frontier Province, Legislatice Department, No.D/3289-F., dated the 1st June 1939.

Copy of letter No. 346 XX.C.29 L.D., dated the 20th February 1939, from the Government of North-West Frontier Province, Legislative Department, Peshawar, to the Government of India, Department of Commerce, New Delhi.

Subject:- Section 277 K(3) of the Indian Companies Act, 1913 - Investment of Reserve Fund.

With reference to your letter No.23(22)-Tr(CL)/38, dated 2nd December 1938, I am directed to forward a copy of letter No. 188/39, dated 7th February 1938, from the Manager, the Frontier Bank Limited, Dera Ismail Khan, for information and favour of opinion as to whether the Registrar can legally compel the Banks if they are not willing to take the permission before the securities forming part of the Reserve Fund are pledged.

Copy of a letter No.188/39, dated 7th February 1939, from the Manager, the Frontier Bank, Limited, Dera Ismail Khan.

We are in receipt of your letter No.2464-65-L.D., dated 2nd December 1938, and have taken legal advice in the matter,and have to reply as under:-

1. The new amendment of the Companies Act comes into force from 15-1-1937 and section 277 K(3) is only operative from 15-1-1939. We are, therefore separating the Reserve Fund from this year. It has been already invested in Government securities

2. As regards the Government of India suggestion that permission of the Registrar be taken before utilising the Reserve Fund securities in case of emergency, I have to state that this is neither legal nor practical. Grave emergencies and Banking crises arise suddenly and immediate action has to be taken to safeguard the Bank's credit. It is, therefore, impossible to waste time in obtaining sanction, which is not legally binding.

3. In accordance with Section 137 of the Indian Companies Act the Registrar can only call for information and we shall be glad to send regular information about our investment of Reserve Fund.

Copy of a letter No.D/3289-F., dated the 1st June 1939, from Under Secretary to the Government of India, Finance Department, to the Secretary to the Government of the North-West Frontier Province, Legislative Department.

Subject:-Section 277 K(3) of the Indian Companies Act, 1913.

I am directed to refer to your letter No.346 LD./XX.C.29, dated the 20th February 1939 addressed to the Commerce Department, and to say that the Government of India have reconsidered the position set forth in the second paragraph of this Department letter No.D/7014-F, dated the 15th November 1938. According to section 277 K of the Indian Companies Act, two forms have been prescribed for the maintenance of the Reserve Fund, namely, either by investing it in Government or Trust securities, or by depositing it in a scheduled bank. Referring to the latter form of maintaining the Fund, sub-section (3) of that section uses the words 'keep deposited' which clearly implies that the Reserve Fund so maintained is not capable of being drawn upon in any circumstances. The Government of India see no practical difference between withdrawing the money or part of it, where the Reserve Fund takes the form of a deposit in a scheduled bank, and raising money by pledging the securities in which the Reserve Fund is invested. It is quite unreasonable to hold that by merely changing the form in which the Reserve Fund is to be maintained, i.e., by investing it in Government or Trust securities, the Bank can assume to itself the power of drawing upon the Reserve Fund by pledging those securities. The same conclusion is deducible from the use of the word 'maintain' in sub-section (1) of section 277 K. The Government of India, therefore, hold that the intention of section 277 K(3) clearly is - and any other construction would defeat the object of the provision - that the securities in which the Reserve Fund is invested ought not to be made available in any circumstances for being pledged or otherwise encumbered, and I am to ask that the above sub-section should be acted upon by the companies accordingly.

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21st August *1939.*

Issue
Issued 14/8
21/8/39

R Dis. No. F. 267-39 Ext(2).
Judl.

A copy of the undermentioned paper(s) is forwarded to the

Registrar of Joint Stock Companies, Extn. Station,
Bangalore,

for information, in continuation of ~~with reference to~~ ~~the correspondence ending with (his)~~
~~Memorandum~~ / ~~letter~~ / endorsement from this Residency

D. No. F. 71-39 / R.O. II, dated the 21st January 1939.

* SN. 2
Corp. 5

By order, etc.,

14.8.

~~Secretary~~ / Asst. Secy. to the Resident in Mysore.

List of papers.

1. Letter from the Government of the North-West Frontier Province, Legislative Department, No. 346/xx-C.29 L.D., dated the 20th February 1939 and enclosure.

2. Letter from the Government of India, Finance Department, to the Government of the North-West Frontier Province, Legislative Department, No. D/3289-F., dated the 1st June 1939.

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Qslm 12.8.39